



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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OFFICE OF
WATER AND WATERSHEDS

January 17, 2012

Mr. Kelly Susewind
Washington Department of Ecology
Water Quality Program Manager

Mr. Jim Pendowski
Washington Department of Ecology
Toxics Cleanup Program Manager

[Comments submitted electronically to fishconsumption@ecy.wa.gov](mailto:fishconsumption@ecy.wa.gov)

Re: Comments on Ecology's *Fish Consumption Rates Technical Support Document*

Dear Mr. Susewind & Mr. Pendowski:

This letter provides the Environmental Protection Agency's (EPA's) general comments on the Washington Department of Ecology's (Ecology's) process to undergo revisions to the state's fish consumption rate. Ecology has initiated this evaluation through the release of a draft report titled, *Fish Consumption Rates Technical Support Document: A Review of Data and Information About Fish Consumption in Washington* dated September 2011 and a request for public comments by January 18, 2012 on the draft document.

EPA would like to thank Ecology for the opportunity to provide comments on the draft document. This document provides a strong framework for your upcoming process to choose a fish consumption rate that more accurately reflects the fish and shellfish consumed by people in Washington. In turn, this rate may be used to adopt criteria that protect the health of those consumers. You and your staff should be commended for the quality, substance and readability of the document.

Defining appropriate fish consumption rates are critical to adopting water quality standards that ensure adequate human health protection. In Washington, this analysis affects future revisions to the state's Surface Water Quality Standards (WQS) at WAC 173-201A and Sediment Management Standards (SMS) at WAC 173-204 since both will involve protection of human health from toxic substances through criteria derived using a fish consumption rate. We look forward to our continued work with you throughout your revision processes to ensure that the criteria can be approved under the Clean Water Act.

Ecology currently recognizes two separate default fish consumption rates used to establish regulatory requirements:

- For cleanup actions, the Model Toxics Control Act (MTCA) Cleanup Regulations includes a default fish consumption rate of 54 grams per day. The SMS currently do not have numeric human health criteria, but instead rely on a narrative statement. (Ecology expects that upcoming revisions to the SMS will utilize a fish consumption rate to calculate numeric human health criteria.)
- For water quality standards, the Surface Water Quality Standards are based on the National Toxics Rule (NTR) which sets water quality standards for human health criteria based on a fish consumption rate of 6.5 grams per day.

The water quality standards regulation at 40 C.F.R. 131.11(a) requires states to adopt water quality criteria to protect all designated uses. Such criteria must be based on sound scientific rationale and must contain sufficient parameters or constituents to protect the designated use. In 2000, EPA updated its methodology for deriving human health criteria (2000 Methodology).¹ In that document EPA urges states and tribes to use a fish intake level derived from local or regional data. Consideration of local data is important to ensure protection of the local populations, especially when that population includes subpopulations that eat larger quantities of fish and shellfish. A four preference hierarchy concerning the use of fish consumption rate data is set forth: (1) use of local data; (2) use of data reflecting similar geography/population groups; (3) use of data from national surveys; and (4) use of EPA's default intake rate of 17.5 grams per day if no state/site-specific information is available.

Washington's human health criteria were issued by EPA in 1992 and derived using a fish consumption rate of 6.5 grams per day. As identified in your draft document, several studies of Northwest populations indicate that this rate is not reflective of the amount of fish and shellfish consumed by some in the state of Washington. Therefore, it is appropriate and consistent with EPA guidance for Ecology to examine the current science to determine an appropriate fish consumption rate to use for deriving criteria protective of the state's designated uses. EPA recognizes that Ecology has begun this process in the draft *Fish Consumption Rates Technical Support Document* and believes it is important for you to use the recommendations presented in this document along with the comments received to determine an appropriate rate to use in deriving the human health criteria in your SMS and WQS.

In the draft *Fish Consumption Rates Technical Support Document* a preliminary recommendation for a revised fish consumption rate in the range of 157 to 267 grams per day is proposed for use in the state's regulations. This range is primarily based on Ecology's evaluation of four studies:

- *A Fish Consumption Survey of the Umatilla, Nez Perce, Yakama, and Warm Springs Tribes of the Columbia River Basin* (Columbia River Inter-Tribal Fish Commission, 1994).
- *A Fish Consumption Survey of the Tulalip and Squaxin Island Tribes of the Puget Sound Region* (Toy et al., 1996).

¹ EPA. 2000. *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health*. U.S. Environmental Protection Agency, Office of Water, Washington, D.C. EPA-822-B-00-004. Available at: <http://www.epa.gov/waterscience/criteria/humanhealth/method/complete.pdf>.

- *Fish Consumption Survey of the Suquamish Indian Tribe of the Port Madison Indian Reservations, Puget Sound Region* (Suquamish Tribe, 2000).
- *Asian and Pacific Islander Seafood Consumption Study* (Sechena et al., 1999).

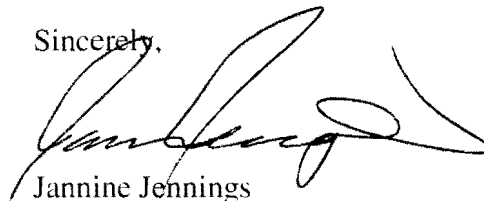
To reiterate, EPA believes the approach for developing a revised fish consumption rate should be based on current scientific information and local/regional data. The initial approach put forth in the draft report is aligned with this thinking. While we understand the need for continued coordination with your stakeholders and the Tribes, we encourage you to quickly incorporate this information into your rulemaking process and move forward with adopting revised criteria.

EPA is aware that Ecology has been following the work previously completed in Oregon to make similar revisions to their WQS involving a revised fish consumption rate based on 175 grams per day and associated new and revised implementation tools. The revisions to Oregon's WQS were approved by EPA on October 17, 2011. To avoid duplication of efforts, we recommend that you continue to consult with the state of Oregon as you move forward.

EPA urges Ecology to continue the process of revising Washington's human health criteria in a timely manner. However, EPA recognizes that several key questions still need to be decided. For example, Ecology will need to decide on implementation tools in order to put into practice revised human health criteria and Ecology will need to decide if a consistent number will be chosen for the state's SMS and WQS. Nonetheless, EPA believes the information is currently available to make decisions on these matters and requests Ecology to quickly move through the process necessary to do so. EPA remains committed to working with Ecology, the Tribes and Washington's stakeholders to facilitate the adoption of water quality criteria that reflect appropriate fish consumption rates for Washington's waters and are protective of human health.

Since this is a priority for EPA Region 10, we are available and willing to work closely with you throughout your human health criteria update process. EPA greatly appreciates your engagement on this significant topic. Please feel free to contact me at (206) 553-2724 or have your staff contact Matthew Szelag at (206) 553-5171 as we continue to move forward on this important effort.

Sincerely,



Jannine Jennings
Manager, WQS Unit
Office of Water and Watersheds